

4432. Adulteration and misbranding of tomato pulp. U. S. * * * v. 50 Cases * * * of Tomato Pulp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 6380. I. S. No. 12752-k. S. No. C-183.)

On March 18, 1915, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 50 cases, each containing 48 cans, of tomato pulp, remaining unsold in the original unbroken packages at Kansas City, Kans., alleging that the article had been shipped in March, 1915, and transported from the State of Indiana into the State of Kansas, and charging adulteration and misbranding in violation of the Food and Drugs Act. The shipping cases were labeled: "No. 1, Old Mammy's Brand, Tomato Pulp." The cans were labeled: "Old Mammy's Brand Tomato Pulp, Contents, Ten Ounces, Best Quality."

Adulteration of the article was alleged in the libel for the reason that it contained, in part, a filthy, decomposed, [and] putrid vegetable substance and was unfit for food.

Misbranding was alleged for the reason that the cases and cans were labeled as set forth above while, in truth and in fact, the cases did not contain No. 1 tomato pulp in the sense and meaning of the expression "No. 1," and the cans did not contain the best quality of tomato pulp.

On September 23, 1915, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN, *Acting Secretary of Agriculture.*